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8 UNITED STATES DISTRICT COURT  
9 WESTERN DISTRICT OF WASHINGTON  
10 AT TACOMA

11 DAWUD HALISI MALIK AKA DAVID  
12 WASHINGTON RIGGINS,

13 Plaintiff,

14 v.

15 ELDON VAIL, et al.,

16 Defendant.

CASE NO. C11-5226RJB

ORDER DECLINING TO ADOPT  
REPORT AND  
RECOMMENDATION, GRANTING  
PLAINTIFF'S MOTION TO  
PROCEED IN FORMA PAUPERIS,  
AND RE-REFERRING CASE TO  
MAGISTRATE JUDGE

17 This matter comes before the court on the Report and Recommendation of the Magistrate  
18 Judge. Dkt. 8. The court has reviewed the relevant documents, including plaintiff's objections  
19 (Dkt. 9), and the remainder of the file herein.

20 On June 21, 2011, U.S. Magistrate Judge Richard J. Creatura issued a Report and  
21 Recommendation, recommending that the court deny plaintiff's application to proceed *in forma*  
22 *pauperis*. Dkt. 8. At the time the Report and Recommendation was issued, plaintiff had not  
23 filed a completed Acknowledgment and Authorization form, directing the institution at which he

24 ORDER DECLINING TO ADOPT REPORT AND  
RECOMMENDATION, GRANTING PLAINTIFF'S  
MOTION TO PROCEED IN FORMA PAUPERIS,  
AND RE-REFERRING CASE TO MAGISTRATE  
JUDGE- 1

1 is incarcerated to deduct the filing fee in this matter from his prison trust account, pursuant to 28  
2 U.S.C. § 1915.

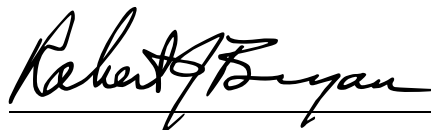
3 On June 30, 2011, plaintiff filed an Acknowledgment and Authorization form. Dkt. 9, at  
4 4. It appears from the pleadings filed in this case that plaintiff was attempting to have the filing  
5 fee deducted by the institution from his Mandatory Savings Account, to which prisoners do not  
6 normally have access, instead of from the spendable portion of his prison trust account. The  
7 institution has apparently not authorized withdrawal from the Mandatory Savings Account.  
8 However, by signing and filing the Acknowledgment and Authorization form, plaintiff has  
9 authorized the institution to forward the filing fee to the court, consistent with 28 U.S.C. § 1915,  
10 and in accordance with the institution's normal policies and procedures.

11 The district court may permit indigent litigants to proceed *in forma pauperis* upon  
12 completion of a proper affidavit of indigency. See 28 U.S.C. § 1915(a). A review of the record  
13 shows that plaintiff is unable to pay the filing fee at this time. The court should grant plaintiff's  
14 application to proceed *in forma pauperis*.

15 Accordingly, the court **DECLINES TO ADOPT** the Report and Recommendation. Dkt.  
16 8. Plaintiff's application to proceed *in forma pauperis* (Dkt. 1) is **GRANTED**. This case is re-  
17 referred to the magistrate judge for further proceedings.

18 The Clerk is directed to send uncertified copies of this Order to all counsel of record and  
19 to any party appearing *pro se* at said party's last known address.

20 Dated this 6th day of July, 2011.

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23 ROBERT J. BRYAN  
United States District Judge